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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,390	04/02/2001	Norihiko Kanae	109106	9343

25944 7590 05/19/2003

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EXAMINER

TRAN, HENRY N

ART UNIT	PAPER NUMBER
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2674

18

DATE MAILED: 05/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/828,390

Applicant(s)

KANAE ET AL.

Examiner

HENRY N. TRAN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11/18/02 and the interview on 4/10/03.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8 is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 April 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 26 August 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This Office action is in response to the applicants' Request For Reconsideration filed 2/19/03 (paper no. 16). The Request and the applicants' remarks were considered, with the results set forth as following.

1. Claims 1-8 are pending in this application.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-5 and 7 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Albert et al (U.S. Patent 6,252,564, "Albert") in view of Morita et al (U.S. Patent 6,400,492, "Morita") as recited in the prior Office action filed 11/18/02 (paper no. 14).

Allowable Subject Matter

4. Claim 8 is allowed; and claim 6 is objected to as being dependent upon a rejected claim 5, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims as indicated in the prior Office action noted above. Also, the statement of reasons for the indication of allowable subject matter was provided in said Office action.

Response to Arguments

5. Applicant argues that applicant's invention provides an electrophoretic display device employing a urethane-based resin as the transparent resin for improving the display quality, particularly the display retention under high temperature; whereas, the prior art, Albert 's invention does not disclose the "at least urethane resin; also, another prior art, the Morita's invention does not disclose a specific material for the over coat layer 8. These arguments are not persuasive because of the following reason:

- (i) Regarding claims 1, 3 and 7, Albert teaches an electrophoretic display device 40 including a resin layer 48 (figure 5A), which does not specifically include "at least urethane resin". Morita teaches an electrophoretic display device including a resin layer 8 (an overcoat layer 8) (figures 6A and 6B), which includes a urethane-based material such as polyurethane (Morita teaches: "Suitable materials for use in the overcoat layer 8 include the materials mention above for use in the matrix" (see col. 21, lines 31-33); wherein the suitable matrix materials include polyurethane (see col. 15, lines 49-62). Albert also shows that the microcapsule 50 is in contact with both of the conductive film 44 and the resin layer 48 (see figure 5A).
- (ii) The claim language does not recite: "each of the microcapsule is in contact with both of the conductive film and the resin layer".

Conclusion

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HENRY N. TRAN whose telephone number is (703) 308-8410. The examiner can normally be reached on Mon - Fri from 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, RICHARD A. HJERPE, can be reached at (703) 305-4709.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks

Washington, D.C. 20231

or faxed to:

(703) 872-9314 (for technology Center 2600 only)

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA, Sixth Floor (Receptionist).

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 2600 Customer Service Office Whose telephone number is (703) 306-0377.

Henry N. Tran

HENRY N. TRAN
Examiner
Art Unit 2674

hnt
May 16, 2003



RICHARD HJERPE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600